(Cap. 133), appears to have been committed shortly before 4th December 1953 in view of the admission on the point by the defendant to which Mr. Cashin, whose evidence I accept, testified. This breach, to put the matter shortly, was the erection of board partitions for the purpose of forming cubicles without the consent in writing of the Commissioners. There was some evidence that a plan in respect of the premises had been submitted and approved in 1939, but, apart from the point whether such approval could still have validity in 1953, there is no evidence before the Court that what the defendant erected was in accordance with whatever had been approved in 1939. Now Section 166(2) reads:—

"In every such case the owner of the premises shall be deemed to have permitted such erection until the contrary is proved",

and, having regard to the wording of Section 166(1), the owner, if the contrary is not proved, is clearly liable to the prescribed penalty of fine. It was contended for the defence that it had not been proved the plaintiff was the owner of the premises, but, while it is true this was not stated in so many words, I feel satisfied in view of Mr. Cashin's evidence, and particularly since no cross-examination was directed to the point, that the plaintiff was and is the owner. In any event the plaintiff would appear to be covered by the definition of "owner" in Section 3 of the Municipal Ordinance. In the light then of the construction of Section 15(h) I have favoured it follows that once the defendant had erected the unauthorised partitions the plaintiff was in the position of being deemed to have permitted the erection and so was exposed to prosecution. It is I think true to say that in the course of events the case took the plaintiff never was in any serious danger of finding herself in the City Magistrate's Court, but that does not, I think, alter the fact that the defendant's breach did expose her to prosecution. It was apparently Mr. Cashin himself who first noticed the breach when he was doing a routine inspection of the premises, and he brought it to the notice of the City Architect. It is conceivable that had the City Architect's department discovered the breach before Mr. Cashin that the case might have had a different history.

The second breach of the tenant—that under Section 144(7)—was the commencement of building operations without proper notice to the Commissioners. Section 144(12) reads:—

"Where any building operations are commenced or carried out in respect of any building, they shall be deemed to have been commenced or carried out by the owner of the land where such building is erected and he shall be deemed liable therefor."

This provision read in conjunction with Section 144(7) may bring an owner within the scope of the penalty clause. It seems to me, therefore, that when the defendant commenced to erect the partitions and the other work described in his evidence by Mr. Francis Chan Mun Cheok, without having given the required notice to the Commissioners, he rendered the plaintiff liable to prosecution.

I hold then, by reason of these two breaches and of the defendant's knowledge in the matter, this is a case within Section 15(1)(h) of the Control of Rent Ordinance, 1953. It is not disputed that the defendant's tenancy was duly determined by notice to quit dated 17th February 1954. It is not suggested that once a case under Section 15 has been established the Court retains any discretion as to the application of the section, and I would add, that even if it had, this does not seem to me a Suit in which there is any ground of merit for a Court declining to apply the Section. Under Section 18, however, I propose to give the defendant until May 1st next to surrender possession. Accordingly I hold that the plaintiff's claim for possession of the premises must succeed, as does also her claim for *mesne* profits from 1st April 1954 until the date of judgment or until possession is given at the rate of $125 per month. The plaintiff is also entitled to the costs of this Suit.

Judgment accordingly.

Solicitors: *Drew & Napier; Allen & Gledhill.*

CHEE CHOONG WAH v. REGINA

[A. Cr. J. (Murray-Aynsley C.J.) March 16, 1955]

[Singapore—Magistrate's Appeal No. 214 of 1954]

Extradition—Fugitive Offenders Act, 1881—Straits Settlements and Protected States Fugitive Offenders Order in Council, 1916—Legal position of fugitive offender in view of the Federation of Malaya Order in Council, 1948—Authentication of Warrant by British Adviser.

This appeal relates to proceedings under Part II of the Fugitive Offenders Act, 1881. A Warrant of Arrest had been issued by the Magistrate in Kuantan, Pahang, to arrest the appellant in Singapore and transfer him to Kuantan, on a cheating charge. The warrant purported to be authenticated by the British Adviser, Pahang. The appellant was subsequently arrested and brought before a Magistrate in Singapore who made an order that the appellant be released on bail in the sum of $2,000 with one surety, to appear before the Magistrate's Court in Kuantan within two months from the date of the final disposition of the case. Against that order the appellant appealed.

Held: although the learned Magistrate could take judicial notice of the Straits Settlements and Protected States Fugitive Offender Order in Council, 1916, he could not take judicial notice of the Federation of Malaya Order in Council, 1948, as the latter Order did not have the force of law in the Colony.

Held further: the British Adviser, Pahang, could not authenticate the Warrant of Arrest.

MAGISTRATE'S APPEAL.

K. A. Seth (*C. H. Koh* with him) for the appellant.

J. F. McWilliam (Crown Counsel) for the respondent.

Cur. Adv. Vult.

Murray-Aynsley C.J. : —This appeal relates to proceedings under Part II of the Fugitive Offenders Act, 1881. Various technical objections were taken to the order made by the learned Magistrate. Whether the order is one which the Magistrate could make seems doubtful. The point was taken in the Memorandum of Appeal but not argued. The main argument dealt with the Straits Settlements and Protected States Fugitive Offenders Order in Council, 1916. As this is a law in force in the Colony I think that the Magistrate was obliged to take judicial notice of it. As the Federation of Malaya Order in Council, 1948, does not have force of law in the Colony I do not think the Magistrate was able to take judicial notice of it.

It further appears the warrant was not properly authenticated. By the principal Act, section 24, the warrant must be authenticated in various ways, including the seal of the Governor. By the Order in Council of 1916 the "Governor" means the officer for the time being exercising the functions, as regards the F.M.S., of the British Resident of the State in, or on his way to, which the fugitive is or is suspected of being.

Here the warrant is authenticated by the seal of the British Adviser, Pahang. Assuming that for the purpose of the Act and the Order in Council the British Adviser represents the British Resident, it does not appear that the British Resident in Pahang could ever authenticate a warrant in these cases. For these reasons the order of the learned Magistrate must be discharged.

There is a very difficult question as to how far, if at all, the Order in Council still applies to the Federation of Malaya in relation to the Colony of Singapore but I have not gone into that.

Appeal allowed.

Solicitors: *C. H. Koh & Co.*

Re LEE YOKE KENG & ORS.

[O. Cr. J. (Mathew C.J.) January 22, 1955]

[K. L.—Criminal Trial No. 41 of 1954]

Penal Code, s. 373A—Buying a female for the purpose of prostitution—Action of police officer to detect offence.

The accused in this case were charged under s. 373A of the Penal Code with buying a female for the purpose of prostitution. It appeared that on receipt of certain information Mr. Clough the officer-in-charge of 'B' Division, Kuala Lumpur arranged that a girl Chan Fong Sai should be produced by the witness who had given the information as a girl who was willing to be sold as a prostitute. As a result the accused were arrested after they had paid a sum of money for the purchase of the girl. It was argued for the accused, *inter alia:* (1) there could be no sale of the girl by herself; (2) the action of the Police Officer in this case was improper.

Held: (1) a woman can sell herself into prostitution and as in this case an attempted buying was proved, the accused were guilty of the charge brought against them; (2) the Police Officer did not behave improperly in this case as if he had not acted as he did a gang of traffickers in women would never have been prosecuted.

Case referred to:—

(1) *Brannan v. Peek* (1947) 2 All E.R. 572, 573.

CRIMINAL TRIAL.

E. Brown (Federal Counsel) for the prosecution.

P. Hall for the accused.

Mathew C.J. : —The accused in this case are charged with buying a female, Chan Fong Sai, for the purpose of prostitution, contrary to section 373A Penal Code.

The fifth accused approached P.W. 1, who was her lodger, and asked her to find a girl without parents who could be sold as a prostitute. P.W. 1 agreed to try, and some days later reported what had occurred to one of her acquaintances P.W. 2, who was a female searcher employed in Campbell Road Police Station, Kuala Lumpur. Very sensibly, P.W. 2 took P.W. 1 to Mr. Clough, Officer-in-charge 'B' Division, whose office was in Campbell Road Police Station. Mr. Clough, in my view, properly considered that the complaint should be followed up and arranged that P.W. 2 should be produced by P.W. 1 as a girl who was willing to be sold as a prostitute.

They (P.Ws. 1 and 2) went out together and contacted the fifth accused, who was joined by accused Nos. 1 and 2; later they were joined by accused 3 and 4. The coffee shop to which they had repaired was considered to be too public a place, and they moved to Tai Eng Hotel, where they continued their conversation in a back room. The sum of $1,000 was agreed to be paid, and P.W. 2 received $50 on account, the balance of $950 to be paid on the following Monday. P.Ws. 1 and 2 then reported to Mr. Clough.

On Monday Mr. Clough obtained a Cadet Social Welfare Assistant, P.W. 3, from Miss Rickword, the head of the Children's Section of the Social Welfare Department, who was detailed to accompany P.Ws. 1 and 2 on this final interview. She accounted for her presence by saying that she too was willing to be sold as a prostitute. The balance of $950 was then handed